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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,418	01/28/2004	Ditmar Kischkel	C 2576A-COGG	2913
23657	7590	09/27/2004		
COGNIS CORPORATION PATENT DEPARTMENT 300 BROOKSIDE AVENUE AMBLER, PA 19002			EXAMINER MRUK, BRIAN P	
			ART UNIT	PAPER NUMBER
			1751	

DATE MAILED: 09/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/766,418	KISCHKEL ET AL.	
	Examiner	Art Unit	
	Brian P Mruk	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 10/278,835.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. This application filed under former 37 CFR 1.60 lacks the necessary reference to the prior application. A statement reading "This is a continuation of Application No. 10/278,835, filed October 23, 2002, now abandoned." should be entered following the title of the invention or as the first sentence of the specification. Also, the current status of all nonprovisional parent applications referenced should be included.
2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-9, 12-13 and 15-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,666,217. Although the conflicting claims are not identical, they are not patentably distinct from each other because U.S. Patent No. 6,666,217 claims a similar solid cleaning composition comprising a gemini surfactant, and adjunct ingredients, such as oligoglycosides, nonionic surfactants, and anionic surfactants (i.e. carriers). Therefore, claims 1-9, 12-13 and 15-20 of the instant invention are an obvious formulation in view of claims 1-20 of U.S. Patent No. 6,666,217.

5. Claims 1-23 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 6,777,384. Although the conflicting claims are not identical, they are not patentably distinct from each other because U.S. Patent No. 6,777,384 claims a similar solid cleaning composition comprising a gemini surfactant, and adjunct ingredients, such as oligoglycosides, nonionic surfactants, builders (i.e. zeolites and phosphates), enzymes, bleach additives, and anionic surfactants. Therefore, claims 1-23 of the instant invention are an obvious formulation in view of claims 1-18 of U.S. Patent No. 6,777,384.

6. Claims 1-23 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of U.S. Patent No. 6,794,345. Although the conflicting claims are not identical, they are not patentably

distinct from each other because U.S. Patent No. 6,794,345 claims a similar solid cleaning composition comprising a gemini surfactant, and adjunct ingredients, such as oligoglycosides, nonionic surfactants, builders (i.e. zeolites and phosphates), enzymes, bleach additives, and anionic surfactants. Therefore, claims 1-23 of the instant invention are an obvious formulation in view of claims 1-16 of U.S. Patent No. 6,794,345.

7. Claims 1-9, 12-20 and 23 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of copending Application No. 10/214,029. Although the conflicting claims are not identical, they are not patentably distinct from each other because copending Application No. 10/214,029 claims a similar solid cleaning composition comprising a gemini surfactant, and adjunct ingredients, such as polyethylene glycol, oligoglycosides, nonionic surfactants, enzymes, bleaches, and anionic surfactants (i.e. carriers). Therefore, claims 1-9, 12-20 and 23 of the instant invention are an obvious formulation in view of claims 1-21 of copending Application No. 10/214,029.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

8. Claims 1-9, 12-20 and 23 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 8-27 of copending Application No. 10/317,445. Although the conflicting claims are not

identical, they are not patentably distinct from each other because copending Application No. 10/317,445 claims a similar solid cleaning composition comprising a gemini surfactant and a fatty alcohol alkoxylate nonionic surfactant (i.e. a carrier). Therefore, claims 1-9, 12-20 and 23 of the instant invention are an obvious formulation in view of claims 8-27 of copending Application No. 10/317,445.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

BPM

Brian Mruk
September 22, 2004

Brian P. Mruk
Brian P. Mruk
Primary Examiner
Tech Center 1700